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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,822	09/12/2003	Huy Phan	03-035 (US01)	7042
23410	7590	08/15/2006	EXAMINER	
Vista IP Law Group LLP 2040 MAIN STREET, 9TH FLOOR IRVINE, CA 92614			GIBSON, ROY DEAN	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/660,822	PHAN, HUY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Roy D. Gibson	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 24 March 2006.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 2-4,9-13,17,23,24,27-30,32,34,35 and 37-65 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 13,32,34,35,42,45-47,51-59,61,62,64 and 65 is/are allowed.

6)  Claim(s) 4,9-12,23,24,27,29,30,37,39,41,43,44,48,49,50,60 and 63 is/are rejected.

7)  Claim(s) 2,3,17,28,38,40 and 47 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_  
  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4, 9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Aida et al. (5,987,495).

Aida et al disclose a medical probe for use with tissue, comprising:  
an elongate member (Figure 17, # 126) having a proximal end and a distal end;  
an operative element (water bag # 124) carried at the distal end of the elongate member, wherein the operative element comprises an expandable-collapsible body; and  
a stabilizing shroud (125 and 144) circumscribing at least a portion of the operative element, the shroud configured for applying a vacuum force to secure the operative element relative to the tissue; wherein the shroud is secured to the distal end of the elongate member; wherein the shroud circumscribes an entirety of the operative element, and wherein the shroud is composed of a material exhibiting a low electrical conductivity (the rubber ring portion and col. 15, line 58-col. 16, line 38).

Claims 10, 23, 24, 27, 29, 30, 39, 41, 43, 44, 48-50, 60 and 63 are rejected under 35 U.S.C. 102(b) as being anticipated by Heckele et al. (6,176,855).

As to claims 10, 23, 24, 41, 43 and 48-50, Heckele et al. disclose a medical probe for use with tissue, comprising:

an elongate member (Figure 4, # 7) having a proximal end and a distal end; an operative element (laser # 10) carried at the distal end of the elongate member; and a stabilizing shroud (sheath # 1 with annular vacuum channel and stabilizer # 14) circumscribing at least a portion of the operative element, the shroud comprising a wall and one or more vacuum ports located on the wall for applying a vacuum force to secure the operative element relative to the tissue (col. 2, line 21-col. 3, line 17).

As to claims 27, 29, 30, 39, 44, 60 and 63, Heckele et al. disclose a method of performing a medical procedure on a patient using a medical probe having an operative element and a shroud circumscribing at least a portion of the operative element, comprising:

introducing the medical probe within the patient to place the operative element adjacent a target epicardial or cardiac tissue site;

applying a vacuum force to the shroud to secure the operative element relative to the target tissue site; and operating the operative element to perform the medical procedure including delivering ablation energy on the target tissue site while the operative element is secured relative to the target tissue site (col. 2, line 21-col. 3, line 17).

***Allowable Subject Matter***

Claims 13, 32, 34, 35, 42, 45, 51-59, 61, 62, 64 and 65 are allowed.

Claims 2, 2, 17, 28, 38, 40, 46 and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on Tu-Th, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Roy D. Gibson  
Primary Examiner  
Art Unit 3739

August 8, 2006